IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 59 OF 2005

Vilasrao Krishnaji Bedekar ... Appellant

V/s

Namdeo Krishnaji Bedekar & ors. ... Respondents

Mr. P.D. Dalvi for the appellant.

CORAM: P.V. KAKADE, J.

DATED: 13TH JULY, 2005

P.C.:

1. The appellant has preferred this appeal against the judgment and order passed by the Addl. District Judge, Kolhapur, dated 29.7.2004 dismissing the appeal and confirming the judgment and order passed by the Joint Civil Judge, Jr.Divn., Kolhapur dated 23.8.2002, dismissing the plaintiff's suit.

2. I have heard the learned counsel for the appellant. Perused the record.

3. The plaintiff had filed the suit for perpetual injunction simplicitor restraining the defendant No.1

from disposing of the suit plots in the suit property.

The plaintiff had filed the suit on the ground that the said document dated 22.6.1992 was executed by defendant No.1 in his favour and, therefore, it was binding on both sides and, therefore, he was in possession of the property by virtue of the said document.

The defendants contested the suit on various grounds including the submission that they were in possession of the suit property.

The learned Trial Judge adjudicated the dispute on merits and came to the conclusion on the basis of the evidence that the plaintiff was not in lawful possession and, therefore, was not entitled to perpetual injunction as prayed for and the suit came to be dismissed.

4. The appeal was carried to the District Court, Kolhapur. The learned Addl. District Judge, after hearing both parties, came to the conclusion that the findings recorded by the Trial Court were legal and proper and hence there was no merit in the appeal and consequently the appeal came to be dismissed. Hence the present appeal.

5. At the outset, it must be noted that there is absolutely no substantial question of law involved in this appeal. Perusal of the record shows that both the Courts below have properly appreciated the entire evidence on record which involves issues of facts which are seen to be answered properly on the basis of available evidence which shows that the plaintiff had absolutely no case to seek relief of perpetual injunction against the defendants.

In view of these aspects, there is no merit in the appeal and, therefore, the appeal stands dismissed with no order as to costs. Consequently, Civil Application No. 92 of 2005 also stands dismissed.

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